

Senate File 486 - Introduced

SENATE FILE 486
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1151)

A BILL FOR

1 An Act establishing a central filing system relating to
2 security interests in farm products, providing fees, and
3 including contingent implementation and effective date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 554.9102, subsection 4, Code 2021, is
2 amended to read as follows:

3 4. *Federal Food Security Act.*

4 a. For purposes of the Federal Food Security Act, 7 U.S.C.
5 §1631, written notice shall be considered to be received by the
6 person to whom it was delivered if the notice is delivered in
7 hand to the person, or mailed by certified or registered mail
8 with the proper postage and properly addressed to the person to
9 whom it was sent. The refusal of a person to whom a notice is
10 so mailed to accept delivery of the notice shall be considered
11 receipt.

12 b. This subsection is repealed on the date that this Act is
13 implemented as provided in this Act.

14 Sec. 2. NEW SECTION. 554C.1 Definitions.

15 As used in this chapter, unless the context otherwise
16 requires:

17 1. "*Buyer*" means any of the following:

18 a. A person who, in the ordinary course of business, buys
19 farm products from a person engaged in farming operations who
20 is in the business of selling farm products.

21 b. A commission merchant.

22 c. A selling agent.

23 2. "*Central filing system*" means a system for filing
24 effective financing statements, and statements amending,
25 continuing, or terminating effective financing statements,
26 established under section 554C.4.

27 3. "*Commission merchant*" means a person engaged in the
28 business of receiving any farm product for sale, on commission,
29 or for or on behalf of another person.

30 4. "*Crop year*" means the calendar year in which a crop is or
31 will be harvested, animals are born or acquired, or poultry or
32 eggs are or will be sold.

33 5. "*Effective financing statement*" means a financing
34 statement required to be filed as part of the central filing
35 system as provided in section 554C.6.

1 6. "*Secretary*" means the secretary of state.

2 7. "*Security interest*" means an interest in farm products
3 that secures payment or performance of an obligation in the
4 same manner as provided in chapter 554.

5 8. "*Selling agent*" means a person, other than a commission
6 merchant, who is engaged in the business of negotiating the
7 sale and purchase of a farm product on behalf of a person
8 engaged in farming operations.

9 9. "*Signature*" means a symbol used to sign, execute, or
10 otherwise adopt a record or a process used to encrypt or
11 similarly process a record, in whole or in part, with the
12 present intent of authenticating the record for purposes of
13 identifying the person adopting or accepting the record.

14 Sec. 3. NEW SECTION. **554C.2 Special definitions.**

15 To every extent consistent with the application of federal
16 law, unless the context otherwise requires:

17 1. "*Agricultural lien*" means the same as defined in section
18 554.9102.

19 2. "*Approved unique identifier*" means a number, combination
20 of numbers and letters, or other identifier selected by the
21 secretary using a selection system or method approved by the
22 United States secretary of agriculture.

23 3. "*Debtor*" means a debtor as defined in section 554.9102
24 who has an interest other than a security interest or lien in a
25 farm product, or any other person who owns a farm product and
26 subjects the farm product to a security interest whether or not
27 that person owes a debt to the secured party.

28 4. "*Farm products*" means the same as defined in section
29 554.9102.

30 5. "*Farming operation*" means the same as defined in section
31 554.9102.

32 6. "*Secured party*" means a secured party as defined in
33 section 554.9102 in whose favor a security interest in farm
34 products is created.

35 7. "*Security interest*" means an interest in farm products

1 that secures payment or performance of an obligation in the
2 same manner as provided in chapter 554.

3 Sec. 4. NEW SECTION. **554C.3 Chapter consistent with uniform**
4 **commercial code.**

5 This chapter shall be interpreted in conjunction with
6 chapter 554, and terms and phrases used in this chapter shall,
7 to every extent practicable, be interpreted consistently with
8 chapter 554, article 9.

9 Sec. 5. NEW SECTION. **554C.4 Central filing system —**
10 **establishment and certification.**

11 1. The secretary shall establish and administer a central
12 filing system, which shall provide for the electronic filing
13 and examining of effective financing statements and statements
14 amending, continuing, or terminating effective financing
15 statements on a statewide basis.

16 2. The central filing system shall be designed to allow
17 persons to file and examine effective financing statements
18 using the internet. The secretary may provide for the
19 filing and examining of statements amending, continuing, or
20 terminating effective financing statements in a paper format.

21 3. The central financing system must comply with the
22 requirements set forth in 7 U.S.C. §1631, and must be certified
23 by the United States secretary of agriculture prior to the date
24 that this Act is implemented.

25 Sec. 6. NEW SECTION. **554C.5 Filing requirements.**

26 1. The secretary shall provide for filing effective
27 financing statements, and statements amending, continuing, or
28 terminating effective financing statements, as provided in
29 this section. The secretary shall prescribe all forms to be
30 used for filing. The presentation of a statement for filing
31 by a secured party and the acceptance of the statement by the
32 secretary constitutes filing under this section.

33 2. An effective financing statement is valid if the
34 statement substantially complies with the requirements of this
35 section and section 554C.6 even though it contains minor errors

1 that are not seriously misleading.

2 3. An effective financing statement must be an original or
3 reproduced copy which is signed by the secured party and the
4 debtor. If filed electronically, the debtor is not required to
5 sign the effective financing statement. The statement must be
6 filed with the secretary by the secured party. The secretary
7 shall record the date and hour of the filing of the effective
8 financing statement.

9 4. An effective financing statement must contain all of the
10 following:

11 a. The name and address of the secured party.

12 b. The name and address of the debtor.

13 c. The approved unique identifier of the debtor.

14 d. A description of the farm products subject to the
15 security interest, the county in Iowa where the farm products
16 are produced or will be produced, the crop year unless every
17 crop of the farm product in question for the duration of
18 the effective financing statement is to be subject to the
19 particular security interest, and further details of the
20 farm products subject to the security interest if needed to
21 distinguish it from other quantities of farm products owned by
22 the same person or persons but not subject to the particular
23 security interest.

24 e. Information that the secretary requires to comply with 7
25 U.S.C. §1631 or to administer this section.

26 5. The effective financing statement may cover more than one
27 farm product located in more than one county.

28 6. A continuation statement shall be signed by the secured
29 party, identify the original effective financing statement by
30 file number, and state that the original financing statement
31 is still effective.

32 **Sec. 7. NEW SECTION. 554C.6 Effectiveness.**

33 1. An effective financing statement shall remain effective
34 for a period of five years from the date of filing, subject to
35 extensions for additional periods of five years each by filing

1 or refiling a continuation statement within six months before
2 the expiration of the five-year period.

3 2. Upon timely filing of a continuation statement, the
4 effectiveness of the original financing statement shall be
5 continued for five years after the last date to which the prior
6 filing was effective, whereupon it shall lapse unless another
7 continuation statement is filed prior to the lapse. Succeeding
8 continuation statements may be filed in the same manner to
9 continue the effectiveness of the original effective financing
10 statement.

11 3. The effective financing statement shall be amended in
12 writing to reflect a material change within three months of the
13 material change. The amendment shall be signed and filed as
14 required for an original effective financing statement. If the
15 statement is filed electronically, the signature of the debtor
16 shall not be required.

17 4. *a.* The effective financing statement lapses upon the
18 expiration of the effective period of the effective financing
19 statement or is terminated upon the filing of a statement
20 signed by the secured party that the effective financing
21 statement is terminated.

22 *b.* If the effective financing statement has not lapsed or is
23 not terminated and there are no outstanding secured obligations
24 and no commitments to make advances, incur obligations, or
25 otherwise give value, the debtor may notify the secured party
26 in writing to terminate the effective financing statement.

27 *c.* Until the debtor instructs the secured party in writing
28 to terminate the effective financing statement, the secured
29 party has no obligation to terminate the effective financing
30 statement.

31 *d.* Within thirty days after receipt by the secured party
32 of the statement from the debtor to terminate the effective
33 financing statement, the secured party shall file with the
34 secretary a termination statement with respect to the effective
35 financing statement.

1 Sec. 8. NEW SECTION. **554C.7 Master list — organization**
2 **and contents.**

3 1. The secretary shall compile the effective financing
4 statements into a master list.

5 2. The master list shall be organized according to farm
6 products. The master list shall contain information required
7 to be contained in effective financing statements filed with
8 the secretary. The secretary shall arrange the master list for
9 each farm product as follows:

10 *a.* In alphabetical order according to the last name of the
11 individual debtors or, in the case of debtors doing business
12 other than as individuals, the first word in the name of such
13 debtors.

14 *b.* In numerical order according to the approved unique
15 identifier numbers of the debtors.

16 *c.* Geographically by county.

17 *d.* By crop year.

18 3. The master list shall include information regarding
19 buyers who register with the secretary on forms prescribed by
20 the secretary as provided in this section.

21 4. The secretary shall maintain a list of all buyers of farm
22 products who register with the secretary. A buyer registering
23 with the secretary shall complete forms requiring all of the
24 following information, as prescribed by the secretary:

25 *a.* The name and address of the buyer.

26 *b.* The interest of the buyer in receiving the list.

27 *c.* The farm products in which the buyer has an interest.

28 Sec. 9. NEW SECTION. **554C.8 Master list — distribution and**
29 **inquiries.**

30 1. The secretary shall distribute to each registered buyer a
31 copy in written, printed, or electronic form of those portions
32 of the master list relating to farm products in which the buyer
33 has registered an interest. The secretary may provide for the
34 distribution of the master list or portions of the list on any
35 other medium requested by a registered buyer. If a registered

1 buyer so requests, the information provided to the buyer may
2 be limited to a county or group of counties where the farm
3 products are produced or to a crop year or crop years or to a
4 combination of those identifiers.

5 2. Distribution is subject to all of the following:

6 a. The distribution shall be by first class or electronic
7 mail.

8 b. The secretary shall adopt rules pursuant to chapter 17A
9 establishing the dates upon which the quarterly distributions
10 will be made, the dates after which a filing of an effective
11 financing statement will not be reflected on the next quarterly
12 distribution of lists, and the dates by which a buyer must
13 complete a registration to receive the next quarterly list.

14 3. The secretary shall remove information pertaining to
15 lapsed and terminated effective financing statements from the
16 master list prior to preparation of the lists required to be
17 distributed.

18 4. Upon written notice to the secretary by a registered
19 buyer requesting termination of the distribution of the
20 list to the registered buyer, the secretary shall terminate
21 distribution of the list to the registered buyer.

22 5. Oral and written inquiries by a buyer not registered
23 pursuant to section 554C.7 may be made to the secretary during
24 hours determined by the secretary.

25 a. The secretary may provide for a computerized system
26 for inquiry and confirmation which may be used in lieu of the
27 inquiry and confirmation system otherwise provided for in this
28 section.

29 b. Written confirmation of the information provided orally
30 in response to the inquiry shall be delivered by first class
31 mail or electronic mail to the buyer, at an address provided
32 by the buyer, by the secretary not later than the second
33 regular business day following the day on which the inquiry was
34 received.

35 6. In order to verify the existence or nonexistence of a

1 security interest, a buyer may request a seller to disclose the
2 seller's unique identifier number.

3 Sec. 10. NEW SECTION. **554C.9 Perfection — creation of**
4 **superior interests.**

5 1. If a buyer fails to register with the secretary prior
6 to the purchase of farm products, the buyer takes subject
7 to a security interest in the farm products only if the
8 secured party has filed an effective financing statement that
9 covers the farm products being sold, and the buyer could have
10 discovered the existence of the effective financing statement
11 prior to the purchase by accessing the database containing
12 effective financing statements filed electronically with the
13 secretary.

14 2. If the buyer registers with the secretary prior to the
15 purchase of the farm products, the buyer takes subject to a
16 security interest in the farm products only if the secured
17 party has filed an effective financing statement that covers
18 the farm products being sold, and the buyer does not secure
19 a waiver or release of the security interest as specified in
20 the effective financing statement from the secured party.
21 If a buyer in the ordinary course of business buying farm
22 products covered by the central filing system as provided in
23 section 554C.4 tenders to the seller the total purchase price
24 by means of a check or any other form of payment payable to
25 such seller and each security interest holder of the seller
26 identified in the central filing system for such products and
27 if such security interest holder authorizes the negotiation
28 of such check or other form of payment, such authorization or
29 endorsement and payment thereof shall constitute a waiver or
30 release of the security interest specified to the extent of
31 the amount of the instrument. Such waiver or release of the
32 security interest shall not serve to establish or alter in any
33 way security interest or lien priorities under Iowa law.

34 Sec. 11. NEW SECTION. **554C.10 Fees.**

35 1. The secretary shall establish fees for initially filing

1 an effective financing statement, or a statement amending,
2 continuing, or terminating an effective financing statement.
3 The fees shall not be more than provided for filing financing
4 statements as provided in section 554.9525.

5 2. The secretary may charge a buyer a fee for registering to
6 receive a master list or for receiving responses to inquiries
7 which are accessed in a printed format. The secretary shall
8 not charge a buyer a fee for registering to receive a master
9 list or for responding to buyer inquiries, including by
10 examining or printing effective financing statements, and
11 statements amending, continuing, or terminating effective
12 financing statements which are accessed in an electronic
13 format.

14 3. All moneys received by the secretary under this section
15 shall be handled in the same manner as repayment receipts, as
16 defined in section 8.2, and shall be used by the secretary
17 exclusively for the administration of this chapter.

18 Sec. 12. NEW SECTION. 554C.11 Rules.

19 The secretary shall adopt rules pursuant to chapter 17A
20 necessary or desirable to administer this chapter.

21 Sec. 13. CONTINGENT IMPLEMENTATION.

22 1. Except as provided in subsection 2, the provisions of
23 this Act shall only be implemented, including administered and
24 enforced, on the first business day that occurs ninety calendar
25 days after federal certification of the central filing system
26 as provided in this Act pursuant to 7 U.S.C. §1631.

27 2. The secretary of state shall adopt rules pursuant to
28 section 554C.11 necessary or desirable to implement, including
29 administer and enforce, the provisions of this Act to be
30 effective on the implementation date of this Act.

31 a. To the extent that the secretary of state determines it
32 necessary to obtain federal certification of the central filing
33 system as provided in this Act pursuant to 7 U.S.C. §1631, the
34 secretary of state may adopt rules providing for a waiver or
35 modification of a provision of this Act, or may supplement a

1 provision of this Act.

2 b. A rule adopted pursuant to paragraph "a" shall be
3 rescinded by its own terms not later than July 1 of the
4 legislative session succeeding implementation of this Act.
5 Prior to that legislative session, the secretary of state shall
6 propose legislation to the general assembly necessary to comply
7 with the certification requirements of 7 U.S.C. §1631.

8 3. Upon federal certification of the central filing system
9 as provided in this Act pursuant to 7 U.S.C. §1631, the
10 secretary of state shall provide notice of the implementation
11 date in three consecutive issues of the Iowa administrative
12 bulletin prior to the implementation date. The secretary
13 of state shall forward a copy of the notice to the Iowa
14 Code editor prior to its first publication. Until the
15 implementation date of this Act, persons shall take subject to
16 or free of a security interest in the same manner and according
17 to the same procedures applicable immediately prior to the
18 implementation date of this Act.

19 Sec. 14. EFFECTIVE DATES.

20 1. Except as provided in subsection 2, this Act takes effect
21 July 1, 2022.

22 2. The section of this Act providing for the contingent
23 implementation of this Act takes effect upon enactment.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 CENTRALIZED FILING SYSTEM. This bill creates a centralized,
28 statewide filing system (system) for security interests in
29 farm products to notify buyers of farm products subject to an
30 attached security interest. Farm products include goods other
31 than standing timber produced as part of a farming operation
32 and includes crops, aquatic goods, livestock, supplies used
33 or produced on the farming operation, or products of crops or
34 livestock in an unmanufactured form (Code section 554.9102).
35 The system must be certified by the United States department

1 of agriculture. The bill allows a person who has a secured
2 interest attached to farm products to complete and file a
3 document referred to as an effective financing statement
4 or a statement amending, continuing, or terminating the
5 effective financing statement, with the secretary of state.
6 The secretary must compile information contained in the
7 effective financing statements into a master list organized
8 according to farm products which the secretary must regularly
9 distribute to buyers of farm products registered with the
10 secretary. The secretary may also respond to verbal or
11 written inquiries by buyers including unregistered buyers and
12 deliver a written confirmation to inquiring buyers regarding
13 whether a farm product is subject to a security interest. If
14 a buyer registers with the secretary prior to the purchase
15 of farm products, the registered buyer takes subject to the
16 security interest only if the secured party has filed an
17 effective financing statement that covers the farm products
18 being sold, unless the registered buyer secures a release of
19 the security interest. If a buyer fails to register with the
20 secretary, the buyer takes subject to the security interest
21 only if the secured party has filed an effective financing
22 statement that covers the farm products, and the buyer could
23 have discovered the existence of the effective financing
24 statement by conducting an inquiry and receiving a response and
25 confirmation. The bill authorizes the secretary to establish
26 fees for secured parties filing effective financing statements
27 and buyers registering with the secretary. The secretary must
28 adopt rules as necessary to implement, administer, and enforce
29 the provisions of the system. The system becomes effective on
30 the first business day occurring 90 days after certification by
31 the United States department of agriculture and publication of
32 three successive notices in the Iowa administrative bulletin.

33 EFFECTIVE DATES. The bill takes effect July 1, 2022, except
34 for the provision relating to contingent implementation which
35 takes effect upon enactment.

1 BACKGROUND. Article 9 of the UCC provides an exception for
2 buyers in the ordinary course of business who generally take
3 free of a security interest created by the seller even in cases
4 in which the security interest has been perfected and the buyer
5 is aware of its existence (Code section 554.9320). However,
6 notwithstanding this exception, a buyer who purchases a farm
7 product from a person engaged in farming operations may not
8 take free of a security interest. The federal Food Security
9 Act of 1985, in relevant part (7 U.S.C. §1631), preempts the
10 state's article 9 requirements by providing that a buyer in
11 the ordinary course of business, a commission merchant, or a
12 selling agent (all classified under the term "buyer") may buy
13 farm products without being subject to a security interest
14 created by the seller but only if the buyer does not have
15 actual or constructive notice of that security interest. The
16 federal law allows states to elect between two notification
17 options: (1) Iowa's current law requiring the secured party to
18 deliver direct notice to potential buyers of a secured party's
19 interest in the farm products within one year prior to sale,
20 or (2) the system described in the bill. In either case, the
21 federal law does not supersede article 9 requirements that
22 establish priorities among creditors.